

paragraph (c) of this section, a financial institution that is subject to § 403.5(d) shall furnish the counterparty with a separate interim disclosure document containing: (i) The disclosure referred to in § 403.5(d) concerning the inapplicability of deposit insurance, and (ii) if applicable, the following disclosure:

“REQUIRED DISCLOSURE

Unless the [buyer] and the [seller] have agreed to the contrary, the [buyer's] securities are likely to be commingled with the [seller's] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer's] securities are commingled with the [seller's] securities, they will be subject to liens granted by the [seller] to third parties and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller's] ability to re-segregate substitute securities for the [buyer] will be subject to the [seller's] ability to satisfy any lien or to obtain substitute securities.”.

(3) In the case of hold-in-custody repurchase transactions initiated before August 31, 1987 and terminating on or after August 31, 1987, the disclosure document described in this paragraph (d) must be mailed to the counterparties involved on or before August 31, 1987. In the case of a hold-in-custody repurchase transaction initiated on or after August 31, 1987, the disclosure document described in this paragraph (d) must be provided to the counterparty involved no later than the day on which the first hold-in-custody repurchase transaction is initiated on or after August 31, 1987, unless the disclosure has already been provided to the counterparty in accordance with the preceding sentence.

(e) *Existing term repurchase transactions.* Notwithstanding paragraphs (b), (c) and (d) of this section, the requirements of §§ 403.4 and 403.5(d) (with respect to hold-in-custody repurchase transactions), with the exception of the requirements to confirm the substitution of securities subject to a repurchase transaction, shall not be applicable to any repurchase transaction, initiated on or before August 31, 1987,

that, by its terms, matures on a specific date after August 31, 1987.

[52 FR 27947, July 24, 1987, as amended at 53 FR 28986, Aug. 1, 1988]

PART 404—RECORDKEEPING AND PRESERVATION OF RECORDS

Sec.

404.1 Application of part to registered brokers and dealers.

404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.

404.3 Records to be preserved by registered government securities brokers and dealers.

404.4 Records to be made and preserved by government securities brokers and dealers that are financial institutions.

404.5 Securities counts by registered government securities brokers and dealers.

AUTHORITY: 15 U.S.C. 78o-5 (b)(1)(B), (b)(1)(C), (b)(2), (b)(4).

SOURCE: 52 FR 27952, July 24, 1987, unless otherwise noted.

§ 404.1 Application of part to registered brokers and dealers.

Compliance by a registered broker or dealer with § 240.17a-3 of this title (pertaining to records to be made), § 240.17a-4 of this title (pertaining to preservation of records), § 240.17a-13 of this title (pertaining to quarterly securities counts) and § 240.17a-7 of this title (pertaining to records of non-resident brokers or dealers) shall constitute compliance with this part.

§ 404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer shall comply with the requirements of § 240.17a-3 of this title (SEC Rule 17a-3), with the following modifications:

(1) References to “broker or dealer” and “broker or dealer registered pursuant to Section 15 of the Act” include registered government securities brokers or dealers.

(2) References to §§ 240.17a-3, 240.17a-4, 240.17a-5, and 240.17a-13 mean such